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REMARKS

Turning to paragraph 1 of the Office Action mailed September 13, 2005, the Examiner has made a restriction requirement requiring Applicants to elect one of the following ten groups of claims: I (those claims "drawn to an image sensor including a variety of sub-components, classified in class 250, subclass 336.1"); II (those claims "drawn to an image sensor including an array of pixels and an attenuating filter, classified in class 250, subclass 339.02"); III (those claims "drawn to an image sensor including an attenuating filter and a control system to generate an image, classified in class 250, subclass 332"); IV (those claims "drawn to an image sensor arrangement including a substrate, a passivation layer, and antireflective layers, classified in class 250, subclass 338.4 and including additional searches in at least class 257, subclasses E23. 132 and 437"); V (those claims "drawn to an image sensor arrangement including a substrate, an encapsulation structure, and antireflective layers formed on the encapsulation structure, classified in class 250, subclass 338.4 and including additional searches in at least class 257, subclasses 433 and 437") and VI (those claims "drawn to an image sensor arrangement including non-silicon features coated with an absorptive material, classified in class 250, subclass 338.4 and including additional searches in at least class 257, subclass 436"). VII (those claims "drawn to an image sensor arrangement including a light source configured to operate in synchronization with the image sensor, classified in class 250, subclass 332 and including additional searches in at least subclass 341.1"); VIII (those claims "drawn to a vision system including a control system configured to identify individual light sources, classified in class 250, subclass

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332 and including additional searches in at least class 701, subclass 300"); IX (those claims "drawn to a method of creating a synthetic high dynamic range image classified in class 250, subclass 341.8") and X (those claims "drawn to a method of detecting objects by finding distinct peaks in a synthetic high dynamic range image, classified in class 250, subclass 332 and including additional searches in at least class 701, subclass 300").

Applicants respectfully elect, with traverse, group VII (claims 47, 26-27, 32-38, 41-43 and 45-46).

Applicants respectfully submit that claims 1-60 are all directed to vehicular vision systems comprising an image sensor or a controller configured to analyze at least one image. The Applicants feel that it is a mischaracterization of the claim set to read out these limitations.

Applicants further submit that the requirement is otherwise improper and should be withdrawn. MPEP §808.05 sets forth the requirements for making a proper restriction based on related inventions. MPEP §806.05(c) provides a specific example that Applicants feel is pertinent when the pending claims are read with regard to the above mentioned common features:

To support a requirement for restriction, both two way distinctness and reasons for insisting on restriction are necessary, i.e. separate classification, status, or field of search. See MPEP §808.02.

II. SUBCOMBINATION ESSENTIAL TO COMBINATION

AB_{sp}/B_{sp} No Restriction

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If there is no evidence that combination AB_{sp} is patentable without the details of B_{sp}, restriction should not be required. Where the relationship between the claims is such that the separately claimed subcombination B_{sp} constitutes the essential distinguishing feature of the combination AB_{sp} as claimed, the inventions are not distinct and a requirement for restriction must not be made, even though the subcombination has separate utility.

In light of the above, the Applicants request that the Examiner reconsider the restriction requirement and regroup claims 1-60 and proceed to examination on the merits. Secondarily, the Applicants would request that the Examiner consider regrouping of claims 47, 26-27, 32-38, 41-43 and 45-46 (Group VII) with claims 7-8, 28-31, 39-40, 44 and 47-51 (Group III) and with claims 52-55 (Group VIII). As indicated by the Examiner, claims 47, 26-27, 32-38, 41-43, 45-46, 7-8, 28-31, 39-40, 44, 47-51 and 52-55 are classified in class 250, subclass 332.

The Applicants request, at a minimum, that the Examiner consider regrouping claims 47, 26-27, 32-38, 41-43 and 45-46 (Group VII) with claims 7-8, 28-31, 39-40, 44 and 47-51 (Group III). As indicated by the Examiner, claims 47, 26-27, 32-38, 41-43, 45-46, 7-8, 28-31, 39-40, 44 and 47-51 are classified in class 250, subclass 332 and that the elected group of claims (Group VII) including additional searches in at least subclass 341.1. No additional search is required when regrouping the claims of group III with the elected group VII.

Therefore, the Applicants respectfully submit that the pending claims do not define related inventions in the meaning of MPEP §806.05. All of the pending claims recite open claim language due to the presence of the transitional phrase "comprising," and thus the components of the structure shown and described in the application do not

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constitute **two way distinctness**. One would not have to be implemented to the exclusion of the other.

Turning to paragraph 4 of the Office Action, the Examiner has indicated that this application contains claims directed to the following patentably distinct species/subcombinations of the claimed invention: **Species 1**, a species directed to controlling the vision system to create a synthetic image; **Species 2**, a species directed to controlling the vision system to create a coded image; and **Species 3**, a species directed to controlling the vision system to find distant peaks. The Applicants elect with traverse Species 1.

The Applicants respectfully submit that claims 1-60 are all directed to vehicular vision systems comprising an image sensor or a controller configured to analyze at least one image. The Applicants feel that it is a mischaracterization of the claim set to read out these limitations. Applicants further submit that the requirement to elect a species is otherwise improper and should be withdrawn. MPEP §804.04(f) sets forth the requirements for making a proper restriction based on species. Specifically, MPEP §804.04(f) states:

Claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that the claims to be restricted to different species, must recite the mutually exclusive characteristics of such species.

Applicant submits that the pending claims do not define mutually exclusive characteristics of the present invention. All of the claims recite open claim language due

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to the presence of the transitional phrase "comprising," and thus the components of the structure shown and described in the applications may be coexisting. In fact, the Applicant has incorporated dependent claims depending from each independent claim that explicitly incorporate each of the features identified by the Examiner to be unique species. One would not have to be implemented to the exclusion of the other.

For the reasons stated above, Applicant submits that the requirement for election of related inventions as stated in the Office Action is improper and should be withdrawn. The Applicant, therefore, requests that the Examiner withdraw the requirement for election of related inventions and proceed to examine claims 1-60. Please contact the undersigned should there be any questions.

Respectfully submitted,

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By: GENTEX CORPORATION

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Date

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